



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

May 7, 2004

Ref: 8ENF-W

CERTIFIED LETTER 7003-2260-0001-7777-9570
RETURN RECEIPT REQUESTED

Bristlecone Water Improvement District
c/o Neil Foster, President
PO Box 640021
Bryce, UT 84764

Re: Administrative Order
Docket No. **SDWA-08-2004-0022**
PWS ID #UT4914191/09077

Dear Mr. Foster:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Bristlecone Water Improvement District is a public water supplier as defined by the SDWA and that it has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.21(a), 141.23(d), 141.201, 141.21(g)(2), and 141.31(b) for: failure to perform routine monitoring for total coliform bacteria; failure to perform routine monitoring for nitrate; failure to provide public notice; failure to report total coliform and/or NPDWR monitoring violations to EPA within 10 days of discovering the violation.

If you comply with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The



Printed on Recycled Paper

information may be sent to Gina Andrews at the address on the letterhead, include the mailcode 8ENF-W, or you may call Ms. Andrews at (800) 227-8917, extension 6688, or (303) 312-6688. If you wish to have an informal conference with EPA, you may also call or write Ms. Andrews. If you are represented by an attorney or have legal questions, please call Amy Swanson at the above 800 number, extension 6906, or at (303) 312-6906.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures
Order
SBREFA
Public Notice template

cc: Ken Bousfield, UT DEQ DW
Kevin Brown, UT DEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

IN THE MATTER OF)	
)	
Bristlecone Water Improvement)	
District)	
Panguitch, Utah)	
PWS ID #UT4914191/09077)	
)	
Respondent)	
)	ADMINISTRATIVE ORDER
Proceedings under Section 1414(g))	
of the Safe Drinking Water Act,)	
42 U.S.C. § 300g-3(g))	Docket No. SDWA-08-2004-0022
)	

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Bristlecone Water Improvement District (Respondent) is an association and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Bristlecone Water Improvement District Water System (the "System"), located in Garfield County, Utah, for the provision to the public of piped water for human

consumption.

3. The System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to a May 2003 sanitary survey by Southwest Utah Public Health Department, Respondent operates a system that is supplied solely by a ground water source consisting of one well operating year-round, and serves approximately 160 persons through 10 service connections. Three residential and 3 non-residential (or commercial) connections are used year round. The remaining four non-residential connections are used 3 to 4 months of each year.

6. The Utah Department of Environmental Quality has primary enforcement authority for the Safe Drinking Water Act in the State of Utah. On March 2, 2004, EPA issued a Notice of Violation to the State requesting that it enforce the violations at the Bristlecone Water Improvement District Water System within 30 days. The State chose not to commence enforcement for the violations.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21(a) requires non-community public water systems with an average daily population of less than 1,001 with a ground water source to monitor the water at least once per quarter that the system serves water to the public to determine compliance with the Maximum Contaminant Level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. Respondent failed to monitor the water for contamination by total coliform bacteria during 1st Quarter (January - March) 1999, 2nd Quarter (April - June) 1999, 3rd Quarter (July - September) 1999, 4th Quarter (October - December) 1999, 1st Quarter 2000, 2nd Quarter 2000, 3rd Quarter 2000, 4th Quarter 2000, 1st

Quarter 2001, 3rd Quarter 2001, 3rd Quarter 2002, 4th Quarter 2002, 2nd Quarter 2003, 3rd Quarter 2003, and 4th Quarter 2003, in violation of 40 C.F.R. § 141.21(a).

II.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62.
2. Respondent last monitored for nitrate in March 1998 but failed to monitor in 1999, 2000, 2001, 2002, and 2003, in violation of 40 C.F.R. § 141.23(d).

III.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulations ("NPDWR") violations, including violations of the MCL, maximum residual disinfection level ("MRDL"), treatment technique (TT), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
2. Respondent has not provided public notice of the noncompliance detailed in the preceding Sections I and II, in violation of 40 C.F.R. § 141.201.

IV.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring

requirement under 40 C.F.R. § 141.21 to report the violation to the State within ten days after the system discovers the violation.

2. Respondent failed to report to the State instances of noncompliance detailed in Section I, in violation of 40 C.F.R. § 141.21(g)(2).

V.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to the State within 48 hours.
2. Respondent failed to report to EPA and the State instances of noncompliance detailed in Sections II and III, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondent shall comply with the total coliform monitoring requirements as stated in 40 C.F.R. § 141.21 to determine compliance with the total coliform MCL appearing at 40 C.F.R.

§ 141.63. Respondent shall comply with the MCLs as stated in 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).

2. Within 30 days of the date of this Order, and annually thereafter, Respondent shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
3. Within 30 days of the effective date of this Order, Respondent shall provide public notice of the violation(s) specified under the Findings of Violation in this Order, to return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205. This notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by

the system, if they would not normally be reached by the notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

4. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA and the State within ten days after the system discovers the violation.
5. Except where a different reporting period is specified in paragraph 4 above, upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA and the state within 48 hours.
5. Reporting requirements specified in this Order shall be

provided by certified mail to:

Gina Andrews
U. S. EPA Region 8 (8ENF-W)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

And

Ken Bousfield
Division of Drinking Water
UT Dept. of Environmental Quality
P.O. Box 144830
Salt Lake City, UT 84114-4830

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order instituted under Section 1414(g) (3) (A), 42 U.S.C. § 300g-3(g) (3) (A), may subject the Respondent to an administrative civil penalty of up to \$27,500 per day of violation under Section 1414(g) (3) (B) of the Act, 42 U.S.C. § 300g-3(g) (3) (B), or a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C).

3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section 1414(b), 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 7TH day of May, 2004.

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement , Compliance
and Environmental Justice

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement , Compliance
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE
CONTACT THE REGIONAL HEARING CLERK.
THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON MAY 7, 2004.**